

**REMARKS**

Claims 9-28 are pending in this application. Claims 13-16 are amended, and claims 17-28 are added.

In the Office Action, claim 14 was rejected under 35 USC §112, second paragraph. Claim 14 is amended to obviate the rejection. As a result, Applicants respectfully request that the rejection be withdrawn.

**The Claimed Invention**

An exemplary embodiment of the invention, as recited by independent claim 9, is directed to a fixing device for fixing the location of an object in a dishwasher, the fixing device has a first section being substantially non-rotating and being capable of being coupled to a vertical element of a crockery basket.

Other exemplary embodiments of the invention, as recited by independent claims 15 and 16, are directed to fixing devices for fixing the location of an object in a dishwasher, the fixing devices have a second section that is a retaining clip interrupted along its vertical axis in such a manner that a vertical basket element can be guided through this interrupted section, and an end region of the second section is solid such that it is not interrupted along the vertical axis of the second section, the end region being located at an end of the second section opposite the first section.

**The Kauffman Reference**

In the Office Action, claims 9-11, 15 and 16 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,289,854 to Kauffman. Applicants respectfully traverse the rejection.

Claim 9 includes the feature of the first section being substantially non-rotating and being capable of being coupled to a vertical element of the crockery basket. In contrast, the removable

embodiment of article retaining device 24 of Kauffman is not disclosed as being non-rotating. The welded or fixed embodiment of Kauffman is not capable of being coupled to an element of the crockery basket because it is fixed to an element of the crockery basket. As a result, Applicants submit that Kauffman does not disclose a fixing device having a first section that is both substantially non-rotating and capable of being coupled to an element of the crockery basket.

Claims 10 and 11 depend from claim 9.

Claims 15 and 16 include the feature of the second section being a retaining clip interrupted along its vertical axis in such a manner that a vertical basket element can be guided through this interrupted section. In contrast, Kauffman does not disclose a retaining clip being interrupted along its vertical axis.

In view of the foregoing, Applicants respectfully submit that Kauffman does not disclose each and every feature of claims 9-11, 15 and 16 and therefore rejection under 35 USC §102(b) is inappropriate. As a result, Applicants respectfully request withdrawal of the rejection.

### **The Patera Reference**

In the Office Action, claims 9-10, 12, 13 and 15 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,927,033 to Patera et al. Applicants respectfully traverse the rejection.

Claim 9 includes the feature of the first section being substantially non-rotating and being capable of being coupled to a vertical element of the crockery basket. In contrast, the Office Action defined first section (hinge member 12) of Patera is not capable of being attached to a vertical element of a crockery basket. As clearly shown in the Figures, article holder 10 of Patera clips to horizontal tine 13 of dish rack 17.

Claims 10, 12 and 13 depend from claim 9.

Claim 15 includes the feature of an end region of the second section being solid such that it is not interrupted along the vertical axis of the second section. In contrast, the Office Action

defined second portion (article engaging member 30) of Patera does not have a solid portion at its end.

In view of the foregoing, Applicants respectfully submit that Patera does not disclose each and every feature of claims 9-10, 12, 13 and 15 and therefore rejection under 35 USC §102(b) is inappropriate. As a result, Applicants respectfully request withdrawal of the rejection.

### **The Pille Reference**

In the Office Action, claims 9-11, 14 and 15 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,918,749 to Pille et al. Applicants respectfully traverse the rejection.

Claim 9 includes the feature of the first section being substantially non-rotating. In contrast, the rack accessory of Pille is not disclosed as being non-rotating. All of the attachment mechanisms of Pille (cap 54, collars 56, and clips 34) would allow the rack accessory to rotate around tine 34.

Claims 10, 11 and 14 depend from claim 9.

In addition, claim 14 includes the feature of a retaining region that points away from the vertical basket element in the direction of the second section embodied as a retaining clip. In contrast, arm 48 of Pille does not point in the direction of the Office Action defined second section (rack accessory 36) of Pille (see Fig. 5).

Claim 15 includes the feature of the second section being a retaining clip interrupted along its vertical axis in such a manner that a vertical basket element can be guided through this interrupted section. In contrast, Pille does not disclose a retaining clip being interrupted along its vertical axis.

In view of the foregoing, Applicants respectfully submit that Pille does not disclose each and every feature of claims 9-11, 14 and 15 and therefore rejection under 35 USC §102(b) is inappropriate. As a result, Applicants respectfully request withdrawal of the rejection.

**The Kauffman Reference in view of the Patera Reference**

In the Office Action, claims 12 and 13 were rejected under 35 U.S.C. 103(a) over Kauffman in view of Patera. Applicant respectfully traverses the rejection.

Patera does not remedy the deficiencies of Kauffman discussed above with regard to the anticipation rejection of claim 9, from which claims 12 and 13 depend.

Indeed, the Examiner does not allege that Patera teaches or suggests the feature of a first section being substantially non-rotating and being capable of being coupled to a vertical element of the crockery basket. The non rotating feature of article holder 10 of Patera results from it being attached to a horizontal tine 13. There is nothing to suggest that the non rotating feature of Patera could be used to attach the device of Kauffman to a vertical member in a non rotating manner.

Regarding claim 13, Applicants submit that it would not have been obvious to combine the parallel legs 32, 34 of Patera with the article retaining device 24 of Kauffman because neither reference teaches any benefit to doing so. As shown in Fig. 1, the interrupted (slotted) feature of second section 2 of the invention allows second section 2 to move past vertical basket element 3 when no object is being held. This means that when an object is being held, second section 2 is moved farther from its rest position than if second section 2 was not interrupted. This results in a higher retaining force as compared to a non interrupted device. This benefit is not recognized by Patera because the device of Patera is not shown as extending past a vertical tine located in the interruption (slot). Note that the configuration shown in Figures 2 and 3 of Patera could use a non interrupted device.

In view of the foregoing, Applicant respectfully submits that the combination of Kauffman and Patera does not suggest the features of claims 12 and 13 and therefore rejection under 35 USC §103(a) is inappropriate. As a result, Applicant respectfully requests withdrawal of the rejection.

**New Claims**

New claims 25-28 are directed to a crockery basket. New claims 17-28 include features not taught or suggested by the applied references.

**CONCLUSION**

In view of the above, Applicant respectfully requests entry of the present Amendment and allowance of claims 9-28. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

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